

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC

Plaintiff,

v.

THE ESTATE OF ALLEN MEISELS, PEGGY A.
MEISELS, in her capacity as Executrix of the Estate
of Allen Meisels, and DAVID T. MULDBERG, in
his capacity as Executor of the Estate of Allen
Meisels,

Defendants.

Case No. 1:20-cv-01278 (GHW)

GREGORY H. WOODS, United States District Judge:

**ORDER ON CONSENT WITHDRAWING THE REFERENCE FROM
THE BANKRUPTCY COURT**

WHEREAS, a motion to withdraw the reference pursuant to 28 U.S.C. § 157(d) and Rule 5011 of the Federal Rules of Bankruptcy Procedure has been filed by the Estate of Allen Meisels, Peggy A. Meisels in her capacity as Executrix of the Estate of Allen Meisels, and David T.

Muldberg, in his capacity as Executor of the Estate of Allen Meisels (collectively, "Defendants"), through their counsel, Chaitman LLP;

WHEREAS, Plaintiff, Irving H. Picard, Trustee for Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq. (the "Trustee"), has requested to file a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Civil Rule 56.1;

WHEREAS, the Trustee sued the Defendants in the Bankruptcy Court to recover, as fraudulent transfers, amounts that Allen Meisels, in good faith, allegedly withdrew from his account with Madoff in the period from December 11, 2006 to December 11, 2008;

WHEREAS, in his Answer, Meisels denied all of the material allegations of the complaint and demanded a trial by jury;

WHEREAS, Meisels died in 2017 and Defendants were substituted into this case in his place;

WHEREAS, as both parties acknowledge, the Bankruptcy Court lacks jurisdiction to conduct a jury trial absent the consent of the Defendants which has not been given;

WHEREAS, the Trustee seeks the Court's permission to file a motion for summary judgment in accordance with the rules of this Court and pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Civil Rule 56.1, which the Defendants will not oppose;

WHEREAS, certain of the factors set forth in *In re Orion Pictures Corp.*, 4 F.3d 1095, 1101 (2d Cir. 1993), have been met and it is appropriate to withdraw the reference to the Bankruptcy Court so that this case can proceed in this Court;

WHEREAS, the Court held a telephonic conference on February 21, 2020; directed the parties to submit a proposed form of order; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. Defendants' motion to withdraw the reference pursuant to 28 U.S.C. § 157(d) and Rule 5011 of the Federal Rules of Bankruptcy Procedure is **GRANTED**;
2. This adversary proceeding is withdrawn from the Bankruptcy Court; and
3. The Trustee shall follow this Court's Individual Rules of Practice to request permission to file a motion for summary judgment.

Dated: February 28, 2020
New York, New York

*Irving H. Picard, Esq., Trustee for the SIPA
Liquidation of Bernard L. Madoff
Investment Securities LLC*

*The Estate of Allen Meisels, Peggy A.
Meisels, in her capacity as Executrix of
the Estate of Allen Meisels, and David T.
Muldberg, in his capacity as Executor of
the Estate of Allen Meisels*

By: /s/ Nicholas J. Cremona
BAKER & HOSTETLER LLP
45 Rockefeller Plaza
New York, New York 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201

By: /s/ Helen Davis Chaitman
CHAITMAN LLP
465 Park Avenue
New York, New York 10022
Telephone & Facsimile: (888) 759-1114

Dated: March 2, 2020
New York, New York

SO ORDERED:



Hon. Gregory H. Woods
United States District Judge